

EXHIBIT 2

In the Matter of:
DOUGLAS HANDSHOE
VS
VAUGHN PERRET ETAL

Deposition
Charles Leary
July 27, 2018



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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DOUGLAS HANDSHOE

v. CIVIL ACTION NO. 1:15cv382-HSO-JCG

VAUGHN PERRET, CHARLES LEARY &
DANIEL ABEL, D/B/A TROUT POINT
LODGE LTD OF NOVA SCOTIA & IN
THEIR INDIVIDUAL CAPACITIES
PROGRESS MEDIA GROUP LIMITED,
MARILYN SMULDERS, & ASHOKA

TELEPHONIC DEPOSITION OF CHARLES LEARY

Taken at
Doug Handshoe Home Office
110 Hall Street
Wiggins, Mississippi 39577
on Friday, July 27th, 2018
beginning at approximately 10:00 a.m.

ANGELI ENGLISH
Shorthand Reporter #1897
Notary Public

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A P P E A R A N C E S

For the Plaintiff:

DOUGLAS HANDSHOE, PRO SE
110 Hall Street
Wiggins, Mississippi 39577
228.284.0004
earning04@gmail.com

For the Defendants:
(Mr. Charles Leary)

VAUGHN PERRET, ESQUIRE (VIA TELEPHONE)
140 Trout Point Road,
E. Kemptville,
Nova Scotia, B5A 5X9 Canada

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1 THE WITNESS: I also, however, want to
2 restate my objections which have already been
3 filed with the Court that, under Federal
4 Rules of Civil Procedure 30, a deposition
5 takes place where the deponent is. I haven't
6 stipulated to anything, other than the rules
7 applying, and I'm not being sworn or deposed
8 here where I am. So I believe that's a
9 contradiction of the Rule 30.

10 MR. HANDSHOE: Okay. We appreciate
11 that, Mr. Leary. Ms. English was furnished
12 with Magistrate Judge Gargiulo's Text Only
13 Order, authorizing her to administer the
14 oath. Your objection is on the record.

15 THE WITNESS: Okay.

16 MR. HANDSHOE: All right. Thank you.

17 (EXHIBIT 1 MARKED.)

18 CHARLES LEARY

19 having been first duly sworn,
20 was examined and testified as follows:

21 EXAMINATION

22 BY MR. HANDSHOE:

23 Q. Where I would like to start with is
24 we're going to talk about Count 5 of the third
25 amended complaint which is the misrepresentation

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1 alleged under 17 U.S. Code 512(f) regarding the
2 takedown notice that you sent to YouTube. The
3 first thing I would like to --

4 A. I object. I didn't send a takedown
5 notice -- to the form of the question.

6 Q. On behalf of Trout Point Lodge you did.

7 A. No. It was not a takedown notice.

8 Q. I'm sorry, Mr. Leary. Can I get you to
9 repeat that.

10 A. It was not a takedown notice and I'm
11 being deposed in my personal capacity.

12 Q. Okay. All right. If it was not a
13 takedown notice, Mr. Leary, exactly what was it?

14 A. I didn't personally send the takedown
15 notice or anything else.

16 Q. Okay. And you did not submit a
17 takedown notice on behalf of Trout Point Lodge?

18 A. As an officer of Trout Point Lodge.

19 Q. Okay. As an officer of Trout Point
20 Lodge, did you submit a takedown notice to
21 YouTube?

22 A. I'm not deposing on behalf of Trout
23 Point Lodge.

24 Q. Okay. All right. So what you're
25 saying is you didn't send a takedown notice, and

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1 you're not going to answer the question on what
2 you did on behalf of Trout Point despite the fact
3 that Trout Point is a defendant in this matter?

4 A. You just told me that I was back then
5 on behalf of Trout Point Lodge and I agree with
6 that.

7 Q. Okay. So you do agree that you were
8 acting on behalf of Trout Point Lodge. And what
9 did you --

10 A. No.

11 Q. Okay.

12 A. That was not with the takedown notice.

13 Q. Okay. So you deny that you sent, using
14 the web form provided by YouTube, a takedown
15 notice on February 14th, 2014 to YouTube?

16 A. Any action was taken on behalf of Trout
17 Point Lodge.

18 Q. So you did send a takedown notice on
19 behalf of Trout Point Lodge, correct?

20 A. I'm not here to testify for Trout Point
21 Lodge.

22 Q. Okay. All right. Let's talk a little
23 bit about the process that was used for you to
24 submit the takedown notice. YouTube had a web
25 form that was filled out. Can you tell me what

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1 your expectation was after the web form was
2 filled out and submitted to YouTube?

3 A. I thought it might prompt you to quit
4 stealing my property or Trout Point Lodge's
5 property.

6 Q. Okay. And what did you expect YouTube
7 to do in response to the web form?

8 A. That's a very open-ended question. I
9 can't really recall.

10 Q. Okay. Let me ask you this: Did
11 YouTube cause the video to be disabled? Was the
12 video removed from publication as a result of the
13 communications between you and YouTube?

14 Mr. Leary?

15 A. My goal was to stop you from continuing
16 to violate my copyright -- or the copyright of
17 Trout Point Lodge.

18 Q. Okay. All right. And what was your
19 expectation when you sent the web form to
20 YouTube, what did you expect YouTube to do in
21 response to your complaint?

22 A. Well, I wasn't sure.

23 Q. Okay. All right. Is it true that
24 acting on behalf of Trout Point Lodge --

25 A. (Inaudible) -- at this point I

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1 specified very specifically, as you know, the
2 seconds in the video in which the copyrighted
3 material appears. And, I mean, it was up to you
4 to do what you wanted with that information.

5 Q. All right. We'll talk about the video
6 itself if you would. The video contained
7 photographs that were published to a website
8 called Slabbed; is that not correct?

9 A. I don't know.

10 Q. You don't know.

11 Is it true that you sued Handshoe in
12 Canada for defamation over publications to the
13 Slabbed website in 2010, 2011 and 2012?

14 A. No.

15 Q. You did not sue Handshoe for defamation
16 in Canada over publications to the Slabbed
17 website in 2010, 2011 and 2012?

18 A. No. I don't understand the question.

19 Q. Did you --

20 A. I was the plaintiff in a lawsuit
21 against Douglas Handshoe in Nova Scotia Supreme
22 Court on two occasions.

23 Q. Okay. Now, the first occasion, what
24 did you sue -- what tort did you allege?

25 A. Various torts.

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1 Q. The tort of defamation; was it not?

2 A. I don't see the relevance in that.

3 Q. I just asked you about publications to
4 the Slabbed New Media website in 2010, 2011 and
5 2012. You indicated --

6 A. (Inaudible.)

7 Q. You indicated, on the record, that you
8 didn't know about these publications. So I'm
9 asking you: If you sued for defamation over
10 these publications I'm asking about?

11 A. I'm sorry. I just don't see the
12 relevance. And you're conflating various
13 different issues. There's no -- the 2010 action
14 has no relevance to this.

15 Q. Well, Mr. Leary, the photograph that
16 you complained of that infringed your copyrights,
17 isn't that true that they were published to the
18 Slabbed New Media website on September 8th, 2011;
19 January 29th, 2012; December 4th, 2012; and
20 October 5th, 2012?

21 A. I'm not sure of any dates. I don't
22 have any documents in front of me.

23 Q. Okay. All right. And it's your
24 contention that you don't know if those
25 publications exist?

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1 A. And I need to note something for the
2 record. Whenever -- and honestly I'm not trying
3 to speak over you, but there seems to be a little
4 bit of delay, and when you're speaking and I
5 speak, it just goes to nothing. I can't hear
6 you. It's garbled.

7 Q. Okay. I --

8 A. But I would like that noted, on the
9 record, and I'll try not to speak while you're
10 speaking.

11 Q. Okay. Thank you, Mr. Leary, and I'll
12 try to be cognizant of the delay on this end, as
13 well.

14 Going back to the photographs that were
15 contained in the YouTube video that you said
16 violated your copyrights. Can you tell me at all
17 when you think they were published to the Slabbed
18 New Media website originally?

19 A. I don't recall.

20 Q. Okay. You don't recall. Okay. So, if
21 I were to tell you, as a matter of fact, that the
22 first picture was published on September the 8th,
23 2011, in a post called: Slabbed solves the
24 mystery on the shores of the Tusket River in Nova
25 Scotia as we reveal the Trout Point connection to

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1 the Jefferson Parish political corruption
2 scandal --

3 MR. PERRET: Irrelevant. I would like
4 to note that's irrelevant.

5 A. I'll concede, Mr. Handshoe, that you
6 stole photos that belonged to Vaughn Perret,
7 myself and Trout Point Lodge and you used them on
8 your commercial website. And you did that to
9 advance your campaign to damage us and also for
10 the commercial success of your website.

11 BY MR. HANDSHOE:

12 Q. Now, Mr. Leary, is it not true that in
13 your counterclaims you listed every one of these
14 photographs?

15 A. I've listed four photographs in my
16 counterclaim.

17 Q. That's right. And these are the
18 photographs that I'm asking you about, that they
19 were published in your counterclaims you actually
20 specifically plead these facts from 2010, 2011
21 and 2012. Now you're telling me that it's not
22 relevant and yet you pled them yourself in your
23 counterclaims?

24 A. Well, I'm telling you that the 2010
25 action in Nova Scotia has no relevancy, and I

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1 don't know why you're bringing it up.

2 Q. Because -- and I'll explain it to you,
3 Mr. Leary. We need to establish the exact dates
4 that these photographs that you complained about
5 first appeared on the Slabbed New Media website.
6 Now, I understand --

7 A. Mr. Handshoe --

8 Q. -- that you blame me --

9 (SPEAKERS SIMULTANEOUSLY.)

10 BY MR. HANDSHOE:

11 Q. Mr. Leary, I understand you blame me
12 but these photographs appeared on a website owned
13 by another party; did they not?

14 A. I don't know, Mr. Handshoe. I don't
15 understand your question.

16 Q. Here's the question, Mr. Leary. These
17 videos that you complain about that has your
18 pictures and the pictures themselves appeared on
19 a website called Slabbed; is that correct?

20 MR. PERRET: Excuse me, Mr. Handshoe.

21 Are you saying that, because you stole
22 photographs and published them, somehow you
23 have a right to continue to steal Mr. Leary's
24 property?

25 MR. HANDSHOE: Is this Mr. Leary?

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1 MR. PERRET: It's Mr. Perret, his
2 attorney, speaking.

3 MR. HANDSHOE: Okay. Now,
4 Mr. Perret --

5 MR. PERRET: So I'm asking you --

6 MR. HANDSHOE: -- you are not enrolled
7 in this case and you are not taking part in
8 this deposition.

9 MR. PERRET: I'm asking you to clarify
10 your question so that Mr. Leary can answer.

11 MR. HANDSHOE: Okay.

12 BY MR. HANDSHOE:

13 Q. The photographs that you complain that
14 you own the copyright on, is it true that they
15 were first published on a website called Slabbed?

16 A. No. They were first published
17 elsewhere.

18 Q. Okay. And then you claim that I,
19 Handshoe, stole those pictures and published them
20 on a website called Slabbed; is that not correct?

21 A. Correct.

22 Q. Okay. All right. Thank you. And is
23 it not true that Slabbed is owned by Slabbed New
24 Media, LLC?

25 A. That would call for me to speculate.

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1 Q. Mr. Leary, on the sidebar on the
2 website, is there not an ISSN declaration with
3 the Library of Congress which shows the copyright
4 of the website belongs to Slabbed New Media, LLC?

5 (SPEAKERS SIMULTANEOUSLY.)

6 MR. PERRET: -- Mr. Handshoe, he's
7 already answered that.

8 THE WITNESS: I've already answered.

9 MR. PERRET: Asked and answered.

10 THE WITNESS: Asked and answered. I've
11 already said that.

12 COURT REPORTER: Okay. I need for
13 y'all to speak one at a time, please,
14 otherwise I can't take it down.

15 THE WITNESS: I object to the form of
16 the question. I've already -- I don't know
17 about the Slabbed website.

18 MR. PERRET: The question has been
19 asked and answered. And Mr. Leary should not
20 be badgered anymore.

21 MR. HANDSHOE: Mr. Perret, you're not
22 authorized to take part in this deposition,
23 and I would ask that you please --

24 MR. PERRET: You're telling me that
25 Mr. Leary does not have a right to have an

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1 attorney?

2 MR. HANDSHOE: You are not enrolled in
3 this case, Mr. Perret, and you are --

4 MR. PERRET: I don't have to be --

5 MR. HANDSHOE: -- practicing law in
6 Mississippi without a license.

7 MR. PERRET: I don't have to be.
8 Mr. Leary is not in Mississippi.

9 MR. HANDSHOE: This court case is,
10 Mr. Perret.

11 THE WITNESS: But it's part of the
12 problem that I have with this deposition
13 under Rule 30. The deposition is supposed to
14 be taking place here and it's not.

15 MR. HANDSHOE: All right. Let's
16 talk --

17 THE WITNESS: The rule of Spain governs
18 this here.

19 BY MR. HANDSHOE:

20 Q. Let's talk about these photographs,
21 Mr. Leary, the photographs that appeared on:
22 Slabbed solves the mystery on the shores of the
23 Tusket River. Is it not true that that post was
24 included in your first Canadian defamation case
25 against Handshoe?

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1 A. I don't know.

2 Q. Okay. All right. Thank you. Is it
3 true that --

4 A. Mr. Handshoe, if you're going to keep
5 talking about defamation when we're talking about
6 your claim in Count 5 --

7 Q. And what I'm trying to establish is the
8 date that these photographs were first published
9 to the Slabbed New Media website. And I'm
10 trying -- you tell me you don't know and yet you
11 sued me, Handshoe, in Canada for defamation over
12 these posts that you now claim to be unfamiliar
13 with?

14 MR. PERRET: What is your point,
15 Mr. Handshoe?

16 COURT REPORTER: Okay. I need y'all to
17 identify yourselves who is speaking.

18 MR. PERRET: Vaughn Perret, speaking on
19 behalf of Mr. Leary.

20 What is your point, Mr. Handshoe?

21 MR. HANDSHOE: Mr. Perret, if you
22 continue to insist on practicing law in a
23 Mississippi case, I'm going to refer you to
24 the Mississippi Supreme Court.

25 MR. PERRET: Go ahead, Mr. Handshoe.

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1 MR. HANDSHOE: All right.

2 MR. PERRET: I'm going to refer you to
3 the Mississippi Supreme Court, as well, for
4 practicing law without a license, claiming to
5 represent Slabbed New Media in multiple
6 litigations when you're not an attorney and
7 have no right to represent a corporation or a
8 partnership or any other kind of business
9 entity in Mississippi.

10 MR. HANDSHOE: That's fine.

11 THE WITNESS: And, I'm sorry. Could
12 you restate the question because --

13 BY MR. HANDSHOE:

14 Q. Well, again, once again, the
15 photographs that you complain about, and I'm
16 trying to establish when you first learned that
17 these photographs were on the Slabbed New Media
18 website?

19 A. I don't recall.

20 Q. You just don't recall. And you don't
21 recall that you ever sued for defamation over any
22 of the posts that contain these photographs in
23 Canada?

24 A. Well, the photographs weren't an issue.

25 Q. That's correct. But they --

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1 (SPEAKERS SIMULTANEOUSLY.)

2 A. -- harassment --

3 BY MR. HANDSHOE:

4 Q. But they were contained --

5 A. -- falsehood, defamation. There were
6 several different causative actions as I recall.
7 Copyright is not defamation.

8 Q. Okay.

9 A. And we're dealing with copyright as far
10 as I can tell.

11 Q. Okay. Even though you didn't sue for
12 copyright infringement in that first suit,
13 Mr. Leary, is it not true the photographs were on
14 that post, the post that you sued over at that
15 time?

16 A. It doesn't change my copyright or the
17 copyright of anyone else.

18 Q. The photographs that you complain of
19 that were taken by Marilyn Smulders that were
20 contained in Nova Scotia Open to the World
21 magazine was published on September the 8th,
22 2011, to the Slabbed New Media website.

23 When did you learn that that photograph
24 taken by Ms. Smulders was published to the
25 Slabbed New Media website?

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1 A. I have no idea. I don't remember.

2 Q. Okay. Let me ask you this, Mr. Leary:

3 What date did you get the assignment for

4 Ms. Smulders on that particular photograph --

5 A. I don't know.

6 Q. -- of you -- you don't recall?

7 (SPEAKERS SIMULTANEOUSLY.)

8 A. -- need documents (inaudible) --

9 BY MR. HANDSHOE:

10 Q. Was it in 2011?

11 A. I don't recall.

12 Q. Was it in 2012?

13 A. I don't recall, Mr. Handshoe. What's
14 important is that the rights were transferred
15 including the right to action.

16 Q. Well, I would disagree with that,
17 Mr. Leary, because --

18 A. (Inaudible.)

19 Q. Let me ask you this: When the
20 photographs were published to the Slabbed New
21 Media website, had you already received an
22 assignment on a photograph from the various
23 creators?

24 A. It's irrelevant and I don't remember.

25 Q. Okay.

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1 A. And, as I recall, and, again, you're
2 asking to testify on behalf of Trout Point Lodge.
3 I'm not here to do that. To my knowledge, the
4 rights were transferred including the right to
5 action. Therefore, anyone who has rights to
6 action in a copyright can pursue prior
7 infringement, ongoing infringement, future
8 infringement.

9 Q. That's not what I'm questioning,
10 Mr. Leary. I'm just trying to establish dates.
11 The date that you received the assignment versus
12 the date that it was originally published to the
13 Slabbed website.

14 A. (Inaudible. Speaking at the same time
15 as Mr. Handshoe.)

16 As you know, there are a lot of facts
17 out there and I do not remember. You're asking
18 me to confirm specific dates that you're putting
19 out there and I can't do that.

20 Q. So you don't remember any of the dates
21 is what you're telling me. You don't remember
22 the date that you got the assignment, and you
23 don't remember the date that these photographs
24 first appeared on the Slabbed New Media website?

25 A. No, I don't.

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1 Q. Okay. All right. Thank you.

2 A. And it's irrelevant.

3 Q. The Court will be the judge of that,
4 Mr. Leary.

5 A. Mr. Handshoe, I wish you would refrain
6 from making these authoritative legal assertions.

7 COURT REPORTER: I'm sorry. Who is
8 speaking?

9 THE WITNESS: Charles Leary.

10 COURT REPORTER: Okay. Thank you.

11 BY MR. HANDSHOE:

12 Q. All right. Mr. Leary, the video that
13 you claim infringes on your copyright, is it
14 registered --

15 A. It's not my copyright.

16 Q. Is it registered in the United States
17 Copyright Office?

18 A. You're asking me to testify for Trout
19 Point Lodge, Mr. Handshoe.

20 Q. No. I'm actually asking you to testify
21 on your own behalf, Mr. Leary.

22 Now is it not true that the assignment
23 that you received you received in July of 2013?

24 A. Mr. Handshoe, you're referring to
25 assignments, plural, and I have no idea what

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1 you're talking about. As far as I know, in
2 Count 5 there's one photograph at issue and again
3 I'm not Trout Point Lodge Limited.

4 Q. No. But you're suing for copyright
5 infringement, Mr. Leary, in your own name, over
6 these photographs that you now claim not to
7 remember anything about.

8 A. Are we dealing with Count 5 here,
9 Mr. Handshoe?

10 Q. Okay. On your counterclaims,
11 Mr. Leary, paragraph 11, you --

12 A. I'm sorry. Are we now switching to the
13 counterclaims?

14 Q. We are going to talk about these dates.
15 You say it's not relevant but I'm going to
16 explain to you how it is. Is it not true that in
17 paragraph 11 of your counterclaims you wrote:
18 The submission to YouTube on February 15th, 2014,
19 did not include any attachment such as a Canadian
20 injunction. This is denied.

21 Now, this isn't Trout Point Lodge, this
22 is Charles Leary's counterclaims.

23 A. I'm sorry. Which number are you
24 referring to?

25 Q. The submission to YouTube on

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1 paragraph 11. This is what you wrote on
2 February 15th: With the submission to YouTube on
3 February 15th, 2014, did not include any
4 attachment such as a Canadian injunction. This
5 is denied.

6 A. I'm sorry. These are my defenses, is
7 that right, not my counterclaim?

8 Q. No. This -- Charles Leary's
9 counterclaims, as well as answering defenses to
10 Douglas Handshoe's third amended complaint for
11 damages, bears Bates Document Number 233, filed
12 on May the 16th, 2018. This filing bears your
13 signature on it. It's not Trout Point Lodge.
14 It's you.

15 A. And, I'm sorry, what page number?

16 Q. Page Number 4, paragraph 11.

17 A. So that's my defenses.

18 Q. Yes.

19 A. Okay. Because you said counterclaims.

20 Q. It's contained in your answer and
21 counterclaims. That's all on one document. They
22 are not two documents, Mr. Leary.

23 A. What was the question?

24 Q. Well --

25 A. And you have to understand, in my

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1 defense, Mr. Handshoe, I'm responding to claims
2 that you have made.

3 Q. Okay. In paragraph 20 of your answer
4 and counterclaims on Page 14, you wrote: At the
5 same time in 2011 and 2012, Handshoe and Slabbed
6 New Media began illegally downloading, copying,
7 storing and distributing copyrighted commercial
8 photographs belonging to Trout Point Lodge,
9 Vaughn Perret and Charles Leary. All right.

10 I had asked you earlier about the posts
11 that they were contained in. And you said that
12 wasn't relevant and yet you pled in your amended
13 complaint specific dates that you now claim not
14 to know anything about. And I'm just trying to
15 figure out and establish direct dates, Mr. Leary.

16 A. Okay. I'm sorry. What page and
17 paragraph number?

18 Q. Paragraph 20.

19 A. And what was your question?

20 Q. First question: When did you receive
21 the assignment to the copyrights?

22 A. I don't recall.

23 Q. Was it in July 2013?

24 A. I don't recall.

25 Q. You just don't recall. Have you

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1 submitted these assignments, did you give it
2 previously to the Court?

3 A. That's possible. Jason Purvis
4 (phonetic) may have, but I still fail to see the
5 relevancy of it. But go ahead and ask your
6 question.

7 Q. Well, I'll explain the relevancy to
8 you, Mr. Leary. In your counterclaims you say
9 that Handshoe and Slabbed New Media illegally
10 downloaded, copied and stored copyrighted
11 commercial photographs belonging to Trout Point
12 Lodge, Vaughn Perret and Charles Leary.

13 Did Marilyn Smulders' photograph belong
14 to Trout Point Lodge, Vaughn Perret and Charles
15 Leary in 2011?

16 A. I don't recall. I don't recall what
17 date the transfer was.

18 Q. Did they belong to Charles Leary,
19 Vaughn Perret and Trout Point Lodge in 2012?

20 A. They didn't belong to all three.

21 Q. Okay.

22 A. Mr. Handshoe, you can keep asking me
23 about the dates and you've asked me that many,
24 many times now. I don't remember the exact
25 dates. I'm traveling. I don't have those

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1 documents with me.

2 Q. Okay.

3 A. But what I put into my defense and
4 counterclaims was what I believed was accurate at
5 the time I wrote that.

6 Q. Is it true, Mr. Leary, that you
7 received the assignment to these photographs
8 after they were first published to the Slabbed
9 New Media website?

10 A. I have no idea. And it doesn't matter
11 because the right to action is the right to
12 action for previous infringements of copyright.
13 And, Mr. Handshoe, you're still publishing all of
14 these images on -- and you have still -- you're
15 still actively every day stealing this
16 intellectual property from third parties. The
17 property doesn't belong to you so it's ongoing.

18 Q. Well, Mr. Leary, would it surprise you
19 to understand or to find out that in order to
20 meet the copying requirement for copyright
21 infringement --

22 A. I'm not here to discuss the law and
23 you're raising legal conclusions.

24 MR. PERRET: And you're not qualified
25 as a lawyer, Mr. Handshoe.

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1 MR. HANDSHOE: Okay. That's fine.

2 THE WITNESS: And there's not enough
3 time for us to get into a legal argument.

4 BY MR. HANDSHOE:

5 Q. Okay. Let's shift gears a little bit
6 and talk about your counterclaim under
7 11 U.S. Code 362. And this is on Page 23 of your
8 amended counterclaims. In paragraph 67, you
9 plead -- where you were the creditor on that
10 bankruptcy proceeding: Handshoe was also the
11 debtor in possession and a creditor in that
12 proceeding.

13 You were a creditor in that proceeding
14 and received notice in that proceeding; did you
15 not, Mr. Leary?

16 A. I don't recall. I recall there was an
17 issue with proper notice but on that I believe we
18 brought to the Court's attention.

19 Q. Okay.

20 A. As always is the case with you,
21 Mr. Handshoe, there were problems with notice.

22 Q. Okay. What was the name of that
23 bankruptcy case, Mr. Leary? Was it: In Re:
24 Handshoe, or was it In Re: Slabbed New Media,
25 LLC?

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1 A. Slabbed New Media was the entity going
2 bankrupt.

3 Q. Okay. So Slabbed New Media was the
4 debtor in possession, correct?

5 A. I don't know. I believe you were.

6 Q. The bankruptcy was In Re: Slabbed New
7 Media, LLC. You just mentioned that and I agree
8 with that, Mr. Leary. The debtor in possession
9 would therefore be Slabbed New Media, LLC,
10 correct?

11 A. You're asking me to make legal
12 conclusions.

13 Q. No. That's not a legal conclusion.
14 The debtor in possession is the person who filed
15 bankruptcy. You pled that Handshoe was also
16 debtor in possession. Handshoe did not declare
17 bankruptcy, did he?

18 A. Mr. Handshoe, from my perspective, the
19 entire thing was a fraud, and I have never been
20 able to quite figure out what you were doing.
21 But it was some way for you to try to avoid us
22 enforcing our Canadian judgment against you. I
23 don't quite understand what your strategy was,
24 but, no, it's my recollection that at some point
25 in time you became the debtor in possession.

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1 But, again, I don't have anything of that in
2 front of me. I know that, you know, this
3 judgment debt that you were awarded changed hands
4 so many times it's hard to keep track of. That's
5 one of the things I'm trying to establish in this
6 case.

7 Q. Okay. All right. And paragraph 69 and
8 68, you plead that on August the 17th, 2016, both
9 Handshoe and attorney, Jackie Truitt, were aware
10 of the 362A stay. Truitt was a creditor in that
11 proceeding. The case was not dismissed until
12 September the 16th.

13 In the next paragraph which is
14 paragraph 69 on Page 24, you further write:
15 Handshoe's actions that day -- speaking,
16 referring to -- you're referring back to August
17 the 17th, 2016 -- in commencing a supplementary
18 proceeding to execute on the \$48,000 debt
19 belonging to Slabbed New Media's part of the
20 estate willfully violated the stay.

21 Now, Mr. Leary, we agree and you
22 mention the assignment that the judgment was
23 assigned to Slabbed New Media, LLC in what you
24 contend as a fraudulent transaction, correct?

25 A. There were so many transactions,

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1 Mr. Handshoe, it's hard to say.

2 Q. Okay. Now explain to me how the
3 managing member of an LLC trying to collect
4 judgment debt belonging to the LLC violates the
5 bankruptcy stay?

6 MR. PERRET: Excuse me, Mr. Handshoe.
7 This is Vaughn Perret speaking. You're
8 talking about corporate law of which you know
9 not much about evidently. You don't have the
10 right to act on behalf of your client. Your
11 lawyer does, of your company, only your
12 lawyer does.

13 MR. HANDSHOE: These counterclaims are
14 against me, Mr. Perret, they're not against
15 the company. These claims are against me,
16 not the company, Mr. Perret. And, again, I
17 would ask you to refrain from practicing law
18 without a license.

19 MR. PERRET: Mr. Handshoe, you
20 represented to the bankruptcy court that it
21 was yours. That it was Slabbed New Media's
22 and now you are saying -- and you have
23 represented before Judge Gargiulo that it's
24 yours. And the contempt order that you
25 received, you lied to Judge Gargiulo about

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1 the true ownership of it, so it's very hard
2 to know exactly what you're saying and hoping
3 to get because there have been so many
4 transfers. There have been so many transfers
5 without consideration. There have been so
6 many transfers and you've used the ownership
7 when it was to your advantage. As
8 Mr. Handshoe, you've used the ownership for
9 Slabbed New Media when you thought it was an
10 advantage. So there's almost no way to even
11 know how to answer you.

12 THE WITNESS: Yes. It's very
13 confusing.

14 MR. HANDSHOE: Mr. Perret, this is not
15 your deposition and you're not the deponent.
16 I would again ask that you refrain --

17 MR. PERRET: You're asking him for a
18 legal conclusion --

19 MR. HANDSHOE: -- from interrupting.

20 MR. PERRET: -- Mr. Handshoe. You're
21 asking him to tell you what he can -- what
22 he's allowed under business enterprise law.

23 THE WITNESS: I'm not --

24 MR. HANDSHOE: I'm asking about the
25 counterclaim against me under

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1 11 U.S. Code 362, is what I'm asking about.

2 And this isn't a claim --

3 MR. PERRET: Object to the form of the
4 question.

5 MR. HANDSHOE: -- against Slabbed New
6 Media. This is a claim against me personally
7 that Mr. Leary personally has levied.

8 THE WITNESS: I object to the form of
9 the question. You're asking me to make a
10 legal determination.

11 BY MR. HANDSHOE:

12 Q. Well, Mr. Leary, is it not true that
13 11 U.S. Code 362, the stay in a Chapter 11
14 bankruptcy case works to the benefit of the
15 debtor in possession?

16 A. You're asking me to make a legal
17 conclusion.

18 MR. PERRET: Excuse me a second. I'm
19 going to assert some things, a legal
20 conclusion. The stay, in fact, proves to
21 everybody, not just the debtor in possession,
22 but all those people who potentially might be
23 made whole from the proceeding that was
24 enacted.

25 THE WITNESS: That's right. That

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1 includes the other creditors.

2 BY MR. HANDSHOE:

3 Q. Okay. So let me ask you: How does
4 Slabbed New Media collecting a \$48,000 judgment
5 hurt the creditors? Does it not enhance the
6 bankruptcy estate, collecting money to
7 distribute?

8 A. That's your position and, again, you're
9 asking me to make legal conclusions.

10 Q. Okay. All right. On paragraph 76,
11 Page 25 of your amended counterclaims, Mr. Leary,
12 you state that, as of February the 14th, 2014,
13 Handshoe was a debtor of Leary. Handshoe made at
14 least one transfer on March 5th, 2014, with the
15 actual intent to hinder, delay or defraud Leary
16 out of the just collection of the debt or at
17 least part of the debt. Handshoe made the
18 transfer to Jack E. Truitt and the Truitt law
19 firm.

20 In reference to that paragraph,
21 Mr. Leary, where you alleged the fraudulent
22 transfer, did you ever file suit in state court
23 to have the transfer set aside?

24 A. Can you restate the question in a
25 simple form, yes-or-no answer?

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1 Q. Okay. Sure. You alleged that I made a
2 fraudulent transfer on March the 5th, 2014, with
3 the intent to hinder, delay or defraud you out of
4 your just collection of your debt or at least
5 part of the debt. Did you ever file suit in
6 state court to have the transfer set aside?

7 A. No.

8 Q. Okay. Thank you.

9 A. But I don't recall when I became aware
10 of the transfer and what was occurring.

11 Q. Okay. I just wanted to know if you
12 ever filed suit in state court to have it set
13 aside. All right. Now in paragraph 80 --

14 A. I did bring it, as I recall, to the
15 attention of the U.S. District Court.

16 Q. That's correct. But, again, you never
17 did file suit in state court.

18 Did you seek enforcement of your
19 judgment in federal court, Mr. Leary?

20 A. Which judgment?

21 Q. The February 2014 judgment.

22 A. In federal court, no, Mr. Handshoe. It
23 was ruled in state court.

24 Q. State court. Okay. So any transfers
25 that you alleged were fraudulent transfers would

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1 they not, too, belong in state court?

2 A. You're asking me to be a lawyer,
3 Mr. Handshoe.

4 Q. Okay. Just asking you. All right.
5 Now --

6 A. We moved it to federal court and it was
7 sent back.

8 Q. Okay. That's true. But you didn't
9 seek the enforcement in federal court, you sought
10 the enforcement in state court, correct?

11 A. Asked and answered.

12 Q. Yes. Okay.

13 A. I already answered that question.

14 Q. All right. Now on Page 27 of your
15 counterclaim for abuse of process, paragraph 81.
16 You claim that Douglas Handshoe used process
17 issues in the state of Mississippi to coerce the
18 defendant, plaintiff by counterclaim, Leary, to
19 cease his legitimate efforts to sue Handshoe for
20 defamation and copyright infringement. Handshoe
21 subsequently processed for the improper and
22 collateral purpose of blackmailing or coercing
23 Leary into stopping his enrollment in the
24 execution upon a copyright infringement judgment
25 of the Nova Scotia Supreme Court rendered on

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1 February the 14th, 2014.

2 Mr. Leary, is it true that you are a
3 judgment debtor of Handshoe from a judgment
4 issued by the United States District Court in
5 2013?

6 MR. PERRET: You can answer that
7 (inaudible).

8 A. I don't know because I don't know when
9 you made these various transfers, Mr. Handshoe,
10 so it's very hard to say who the judgment
11 creditor was at that time. That's part of what
12 I'm hoping we can figure out in this --

13 BY MR. HANDSHOE:

14 Q. Did the federal court issue a
15 judgment --

16 A. -- I'm assuming that your abuse of
17 process on various occasions by having process
18 issue, not in an effort to do what the process
19 was intended to do, but as a way to coerce me
20 into stop pursuit of my Canadian judgment of
21 \$180,000 Canadian against you.

22 Q. Okay. Mr. Leary, is it true that a
23 federal court judgment issued in 2013 made you a
24 judgment debtor of Handshoe?

25 A. Yes.

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1 Q. Okay. Thank you. Now in trying --

2 A. But, Mr. Handshoe, (inaudible) offset
3 is an issue here.

4 Q. All right. I appreciate that.

5 A. I've been robbed of any opportunity for
6 offset by your abuse of process.

7 Q. Okay. Mr. Leary, in reference to that
8 judgment and your complaint that it's an abuse of
9 process, would a judgment -- collecting on a
10 judgment debt is abuse of process?

11 A. I'm sorry. Can you repeat the
12 question.

13 Q. Okay. Is collecting on a judgment debt
14 an abuse of process?

15 A. That's a legal conclusion,
16 Mr. Handshoe.

17 Q. Okay. All right. Now --

18 A. Yes. The way -- I have a judgment
19 along with Trout Point Lodge and Vaughn Perret
20 for \$180,000 Canadian and more with judicial
21 interest. That is superior to \$48,000 Canadian
22 and has been at all times.

23 Q. Okay. Now actually, with regard to
24 your abuse of process complaints, in paragraph 55
25 on Page 21, you mention the August the 17th,

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1 2016, motion with the U.S. District Court for a
2 judgment debtor exam, and you specifically plead
3 that there was no notice given to the plaintiffs
4 in that case, including Leary, of the motion. Is
5 it not true that you had an attorney enrolled in
6 the case at that time?

7 A. Can I just take a break for one second?

8 Q. Sure.

9 A. I'm just trying to find what you're
10 talking about.

11 Q. Paragraph 55, Page 21.

12 A. Okay. And what was the question?

13 Q. At the time the motion was filed on
14 August the 17th, 2016, was there not an attorney
15 enrolled in this case on your behalf?

16 A. As far as I knew, no.

17 Q. Okay. You plead that the lawyer told
18 you in writing that she never received any notice
19 of process in that case; is that true?

20 A. Yes.

21 Q. Okay. Now your lawyer, Ms. Barnett, I
22 believe, in that case, when did she officially
23 withdraw from this matter, from 12-cv-90, that
24 you plead in that paragraph?

25 A. Sometime in late last year.

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1 Q. That's right, October of 2017, for the
2 month and the year, so it's true that there was
3 an attorney enrolled in this case. And let me
4 ask you this, Mr. Leary: In the electronic case
5 filing system --

6 A. No, no --

7 Q. -- the attorneys are noticed when the
8 pleading is filed; is that not correct?

9 A. No.

10 Q. They're not?

11 A. No. Ms. Barnett enrolled in error.
12 She had repeatedly requested to withdraw. We
13 thought she had withdrawn and I made an
14 appearance pro se. And you know that and you
15 knew my address.

16 Q. But your testimony was that
17 Ms. Barnett --

18 A. You --

19 Q. -- did not withdraw until, quote,
20 unquote, late last year.

21 A. In a pattern, you continue to try to
22 serve me in places where I'm not and you know
23 that I'm not.

24 Q. Okay.

25 A. And that was one of those instances.

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1 Q. You also pled that Ms. Barnett said she
2 received no -- never received any notices of the
3 process in that case. Ms. Barnett was
4 electronically noticed when the motion was filed
5 according to the --

6 A. I have no --

7 Q. -- court record; is that not correct?

8 A. I'm not Ms. Barnett.

9 Q. Okay. All right. You claim in
10 paragraph 56 that the lack of notice that you
11 complain about was intentional, but you've also
12 admitted that you had an attorney enrolled at the
13 time?

14 A. It was not our attorney and I was on
15 the record as pro se.

16 Q. Okay. All right.

17 A. With an address on the bottom.

18 Q. All right.

19 A. That speaks for itself.

20 Q. It does. Okay. I agree.

21 A. I believe Mr. Perret's was, as well.

22 Q. So despite that, though, did the Court
23 not find you in contempt?

24 A. I don't know.

25 Q. You don't know if you are currently in

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1 contempt of the United States District Court?

2 A. You made that assertion on various
3 occasions and various pleadings and filings, but
4 I've gotten no notice of that.

5 Q. Did you not request a transcript to
6 those hearings?

7 A. Yes.

8 Q. You did. Okay. And in the transcripts
9 did it not say that you were found to be in
10 contempt?

11 A. I don't recall the transcripts very
12 well.

13 Q. Okay. Thank you.

14 A. Mr. Handshoe, I've never received
15 notice from you of anything in that case in, I
16 think, all of 2016, all of 2017. The last
17 time -- and I didn't even receive notice of when
18 you filed a writ of garnishment motion. I got no
19 notice of that whatsoever. I don't know whether
20 Ms. Barnett did or not but, if so, she never
21 passed it on to us.

22 And I was astounded actually when Judge
23 Gargiulo issued an order in that case on the same
24 day as he was responding to my motion for
25 original discipline. I was flabbergasted and

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1 this pattern of not receiving notice has just
2 continued since then.

3 Q. Okay. Now we're going to move back to
4 your copyright infringement counterclaims against
5 me, Mr. Leary. On paragraph 91 which starts on
6 the bottom of Page 29 and continues on Page 30,
7 it ends with an assertion: That they do not and
8 did not belong to Handshoe and he had no right to
9 copy, distribute, or publish these four works.

10 Is it not true that these works were
11 actually published to Slabbed New Media's
12 website?

13 A. It's irrelevant and --

14 Q. No. This is relevant.

15 A. -- I don't understand the question.

16 Q. You've accused -- you've counterclaimed
17 Handshoe for copyright infringement. We're
18 trying to figure out -- you've also maintained in
19 your filings that I'm alternatively that I'm
20 vicariously liable for copyright infringement.
21 I'm just trying to establish whether or not you
22 ever sued Slabbed New Media for primary
23 infringement?

24 A. You're the publisher.

25 Q. That may be so, Mr. Leary, but that's

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1 not the question. Did you ever sue Slabbed New
2 Media for primary copyright infringement?

3 A. I sued you because you were the person
4 infringing the copyright.

5 Q. Again, that's not responsive to the
6 question I'm asking. I'm asking whether or not
7 you ever sued Slabbed New Media?

8 A. No. I have never sued Slabbed New
9 Media.

10 Q. Okay. Thank you, Mr. Leary. All
11 right. Now we're going to move on to Page 30
12 of -- and it's on the same page as paragraph 94
13 under your claims for tortious interference with
14 contractual relations.

15 You write in paragraph 94 that in an
16 effort to locate Leary and Vaughn Perret, not
17 only to serve them with process, but, also, as
18 part of his plan to intimidate them, defendant by
19 counterclaim, Handshoe, engaged a person, known
20 as MK, purportedly located in British Columbia,
21 Canada to falsely claim interest in purchasing
22 Trout Point Lodge on February the 2nd, 2017, and
23 continuing for several months thereafter.

24 Who is this person, MK? What do those
25 initials stand for, Mr. Leary?

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1 A. (Inaudible.)

2 COURT REPORTER: I'm sorry?

3 BY MR. HANDSHOE:

4 Q. I'm sorry. We did not understand.

5 A. (Inaudible.)

6 COURT REPORTER: Can you spell that,
7 please.

8 THE WITNESS: I believe it's M-i-l-a-n.
9 I'm not sure of the spelling of the last
10 name. I think it's K-u-b-i-k.

11 COURT REPORTER: Thank you.

12 BY MR. HANDSHOE:

13 Q. Okay. Now explain to me the connection
14 between Handshoe and MK. It says -- you
15 specifically pleaded that Handshoe engaged this
16 person. Exactly what proof do you have that
17 Handshoe engaged MK?

18 A. The timing of what was occurring.

19 Q. Okay. The timing. Is there anything
20 else?

21 A. And I believe there was a connection
22 with a Slabbed nation member living in Pugwash,
23 as well.

24 Q. Okay. All right. And you're saying
25 that that person is MK?

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1 A. No. I'm saying there's a connection
2 between MK and that person.

3 Q. Okay. All right. So, other than
4 claiming a connection between a person in
5 Pugwash, Nova Scotia and MK, there is no other
6 connection between Handshoe and MK?

7 A. There's specific instances of the
8 timing of events that made me believe you were
9 behind Mr. MK's action.

10 Q. Which event would those be, Mr. Leary?

11 A. I'm sorry. Could you repeat that.

12 Q. Which events. You said the timing of
13 certain events.

14 A. The timing of people showing up at
15 Trout Point Lodge that were hired by you or by
16 others and also an attempt to discover, not
17 through court process, the assets of Trout Point
18 Lodge which -- while you were in pursuit of
19 enforcing your judgment and trying to stop us
20 from enforcing our judgment or having it set off.

21 Q. Okay.

22 A. And you were also -- you seemed to be
23 very upset recently about us selling our
24 business, and I believe there was also some
25 attempt to interfere with that.

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1 Q. With MK?

2 A. Yes.

3 Q. Okay.

4 A. And in other ways.

5 Q. All right. Is it possible that MK was
6 just someone interested in purchasing the lodge
7 that decided not to?

8 A. No. The story behind MK is far too
9 bizarre to be just "pomperstance".

10 Q. Okay. All right. Now --

11 A. It's similar to things you've written
12 on print websites like Ripped Off Report. Any
13 way you can find to try to damage our business,
14 Mr. Handshoe, you've tried to do it.

15 Q. Okay.

16 A. And MK was part of that.

17 Q. Okay. Now in paragraph 95, just
18 underneath, it says that the falsehoods that MK
19 told you caused you to lose business
20 opportunities. Which business opportunities did
21 you lose?

22 A. Other potential buyers.

23 Q. Did MK ever give you any earnest money
24 for Trout Point Lodge?

25 A. MK was constantly promising earnest

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1 money, providing proof of earnest money. This
2 went on for weeks and it became less and less
3 credible as time went on, and then there were
4 attempts to find our whereabouts, other things.
5 It just happened to be at the same time you, I
6 think, were trying to serve us with some abuse of
7 process.

8 Q. Okay. Did MK ever make an offer in
9 writing to purchase Trout Point Lodge?

10 A. Yes.

11 Q. Okay. With no earnest money?

12 A. Earnest money was promised.

13 Q. It was promised but it was never
14 delivered?

15 A. That's right.

16 Q. Okay. All right. Thank you. And that
17 offer that contained no earnest money caused you
18 to stop negotiating with other parties; is that
19 your contention, Mr. Leary?

20 A. Yes. And to stop -- to turn away other
21 interested parties and to not to accept lower
22 offers.

23 Q. Okay. Now paragraph 96 talks about Bob
24 Watson who checked into Trout Point Lodge, it
25 looks like on September the 16th, 2017, to

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1 disrupt normal business operations, threatened
2 violence, and impugned Leary in his goodwill in
3 the eyes of the employees.

4 Exactly what violence did Mr. Watson
5 threaten?

6 A. His appearance and behavior.

7 Q. Can you elaborate?

8 A. Just the way he was dressed in black
9 leather like a biker. He refused to identify
10 himself, provide ID, provide credit card, and
11 caused a huge scene and we had to call the
12 Mounties.

13 Q. Okay. Nonetheless this Bob Watson was
14 allowed to check into the lodge; was he not?

15 A. No. No check-in process was never
16 completed. That's part of the problem. He
17 refused to provide ID or credit card which, by
18 Nova Scotia law, has to be furnished. He then --
19 when he was questioned again, he simply left,
20 fled.

21 Q. Okay. Did Mr. Watson try to arrange
22 for a birthday party for a larger group when he
23 was at Trout Point Lodge?

24 A. No.

25 Q. No. Okay. Now you contend that

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1 Mr. Watson, who was dressed like a biker gang
2 member, was hired by a bailiff service owner
3 named Steven Kennedy of Halifax, Nova Scotia?

4 A. That's who made the original
5 reservation.

6 Q. Okay. All right. And is it possible
7 that Bob Watson --

8 A. (Inaudible.)

9 Q. Is it possible that Bob Watson is
10 actually Steven Kennedy?

11 A. I have no idea.

12 Q. When Mr. Watson checked into the lodge
13 on September the 15th, 2017, were you at the
14 lodge, Mr. Leary?

15 A. No.

16 Q. Okay. Is it true that you were in the
17 United States at that time, Mr. Leary?

18 A. No.

19 Q. Okay. Thank you. All right. We're
20 going to move back now, Mr. Leary, to Count 5,
21 and we're going to try to get this put to bed.
22 Now -- I apologize. I've got another question
23 regarding your counterclaims, and I apologize for
24 that, Mr. Leary.

25 A. Uh-huh.

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1 Q. In your counterclaims for
2 misrepresentation under 17 U.S. Code 512(f), in
3 relation to the Amazon web services counter
4 notification, you -- and bear with me one second
5 while I get to that part of your complaint. Here
6 we go. Okay. And we're on Pages 28 and 29. In
7 paragraph 86 you state: Handshoe filed DMCA
8 counter notifications under which he swore under
9 the penalty of perjury that he had a good faith
10 belief that his use of Leary's copyright images
11 did not constitute copyright infringement.

12 Now specifically you said Handshoe
13 filed takedown notices. Have you seen the
14 counter notification upon which you're suing?

15 A. I think I saw one of them possibly but
16 I can't recall clearly.

17 Q. Okay. Did the counter notifications
18 come from Handshoe personally or were they
19 submitted on behalf of Slabbed New Media, LLC?

20 A. I don't know.

21 Q. Okay. Mr. Leary, I'm going to
22 introduce --

23 A. I don't recall right now.

24 Q. Okay.

25 A. I would have to investigate it.

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1 (EXHIBIT 2 MARKED.)

2 BY MR. HANDSHOE:

3 Q. Okay. I appreciate that, Mr. Leary.
4 I'm going to introduce as Exhibit 2 a copy of a
5 letter dated January 25th, 2016, on Slabbed New
6 Media's letterhead --

7 A. I object to the introduction of this
8 item. I'm not where you are and you're not where
9 I am. I don't see how exhibits can be
10 introduced.

11 Q. It's the counter notification,
12 Mr. Leary, upon which you're suing.

13 A. Okay. But I'm not there, Mr. Handshoe.
14 I object.

15 Q. Okay. If -- I would provide you with
16 copies of these exhibits and, if these aren't the
17 exact things that you have, Mr. Leary, I count on
18 you to let me know that.

19 A. And, Mr. Handshoe, are you saying that
20 Slabbed New Media is really the culpable party
21 here and I have sued the wrong person, and yet
22 you sue me for the actions of Trout Point Lodge.
23 Can you explain that?

24 Q. Mr. Leary, you're taking the deposition
25 here. I'm just asking you about the counter

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1 notification that you're suing me on. And I just
2 asked you if it was submitted by Handshoe
3 personally or by Slabbed New Media? You claim
4 not to know or you don't recall it. And I
5 appreciate that. There's a lot here, a lot of
6 detail. What I would like to do is introduce
7 into evidence the actual counter notification
8 which is on Slabbed New Media's letterhead. I
9 believe these have previously been exhibited in
10 this --

11 A. It was your dirty hands that typed up
12 the counter notification, Mr. Handshoe.

13 Q. Okay. I appreciate that. Exhibit 2 is
14 the counter notification dated January 25th,
15 2016.

16 A. I object to that exhibit, as well.

17 Q. Okay. All right. You'll get a copy.

18 A. Now, Mr. Handshoe, maybe if -- I don't
19 know, because I'm not a lawyer, but maybe if you
20 had wanted to give notice that you were going to
21 be introducing exhibits. The judge specifically
22 said this was simply an oral deposition without
23 documents and you're introducing documents that
24 are in Mississippi and I'm not there.

25 Q. I believe, Mr. Leary, your own exhibits

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1 at ECF96 included this counter notification,
2 Mr. Leary.

3 A. Okay. I don't have access to that
4 right now, Mr. Handshoe.

5 Q. Okay. I understand that but I'm trying
6 to establish you plead that Handshoe did all this
7 I didn't see anything about Slabbed New Media and
8 yet the counter notification is on Slabbed New
9 Media's letterhead. And I'm just trying to
10 understand what the claim is that you're making
11 against me.

12 A. You're the publisher, Mr. Handshoe.
13 And, under my understanding of copyright law, if
14 you intentionally participated in the
15 counterclaim notification and knowingly did so,
16 then that's actionable.

17 Q. Okay. I appreciate that, Mr. Leary.
18 In reference to the takedown notices, is it
19 true --

20 A. That's a joint liability and if maybe
21 you were in conspiracy with Slabbed New Media,
22 both of you would be culpable.

23 Q. Okay. Thank you, Mr. Leary. Have you
24 ever solicited third parties to send takedown
25 notices involving content owned by the plaintiff

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1 here, Mr. Handshoe?

2 A. No.

3 Q. Never have. Do you recall having
4 communications with a Mr. Dirk Van Loon on
5 October the 13th, 2011?

6 A. No.

7 Q. Okay. All right.

8 A. No. I have no idea.

9 Q. Okay. Thank you.

10 A. And, Mr. Handshoe, how is this relevant
11 to -- we're talking about the DMCA counter
12 notification?

13 Q. Uh-huh.

14 A. I don't understand what --

15 Q. There have been several takedown
16 notices issued through time, Mr. Leary. I was
17 just asking if you ever asked a third party to do
18 it?

19 MR. PERRET: And in the context -- this
20 is Vaughn Perret speaking, I want the
21 question clarified. Are you talking about
22 within the context of actions between you and
23 Mr. Leary, or actions Mr. Leary might have
24 had against other parties?

25 MR. HANDSHOE: No. This would be in

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1 context of actions between me and Mr. Leary.

2 BY MR. HANDSHOE:

3 Q. All right. Let's talk about the video
4 again. We're going to go back to Count 5 of the
5 third amended complaint against you, Mr. Leary.
6 What do you remember about the video besides the
7 fact that it contains a couple of what you claim
8 were your copyrighted pictures? Do you remember
9 anything else about that video?

10 A. Just that it was malicious video
11 published and made by you, once again, weaving
12 your false conspiracy theory about it.

13 Q. Okay. Does the video contain any --

14 A. Part of a (inaudible) campaign to
15 damage as Judge Gargiulo found.

16 Q. Okay. Does the video anywhere in the
17 body of it indicate that it is a Slabbed New
18 Media, LLC production?

19 A. I don't recall.

20 Q. Okay. You don't recall that. Is it
21 true that Slabbed New Media has a registered
22 copyright on this video?

23 A. I think you asserted that, yes, and I
24 think you did that telling the copyright office
25 that you owned 100 percent of the material in the

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1 video which would not have been the case.

2 Q. But still the question is: Is it not
3 registered in the United States Copyright Office?

4 A. I'm sorry. Can you repeat the
5 question.

6 Q. The video, upon which you complained,
7 is it true that it is registered in the United
8 States Copyright Office to Slabbed New Media,
9 LLC?

10 A. It might fraudulently be so, yes.

11 Q. Okay. All right. Thank you,
12 Mr. Leary.

13 A. Even if it is, Mr. Handshoe, I
14 complained about your use of third party
15 intellectual property without permission in a
16 commercial video. And it was very specific in a
17 complaint made under Canadian law from Canada to
18 YouTube about that video. And it was very
19 specific, it was not made under the Digital
20 Millennium Copyright Act. But, even if it was, I
21 had a good faith belief that you were infringing
22 copyright.

23 Q. Okay.

24 A. In fact, a judge had just determined
25 that you didn't own it, the image in question,

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1 and that you were infringing copyrights. So the
2 issue was due to content as far as I could tell.

3 Q. So you --

4 A. And certainly the judge's decision
5 upheld my good faith belief that you were
6 infringing copyright. And the judge's decision
7 also makes it, in my eyes, unquestionable that
8 you knew you didn't own the image when you swore
9 out your counter notification.

10 Q. Mr. Leary, if we could just back up to
11 your answer. I need you to clarify something.
12 You said --

13 A. (Inaudible) -- perjury.

14 Q. You said that the judge found that
15 Handshoe did not own the video and committed
16 copyright infringement, correct?

17 A. Yes.

18 Q. Okay. All right. Now, if Handshoe did
19 not own the video, who did own the video?

20 A. I'm sorry. Wait. Just to clarify, are
21 you talking about the video or the photograph in
22 the video?

23 Q. I'm talking about the video, Mr. Leary.

24 A. Except -- I don't understand.

25 Q. Okay. And maybe we've got our wires

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1 crossed. But, again --

2 A. I was objecting to your use. And I
3 still object to your continued use of a
4 copyrighted image that belonged to a third party
5 that you had no permission to use that you put in
6 the video. And I was very specific in my
7 complaint to YouTube and YouTube did as whatever
8 YouTube does, they publish all over the world.

9 Q. Okay. Is it not true --

10 A. If you're making a video, I don't --
11 you know, I have no qualms with you producing
12 videos, even if they are objectionable to me, as
13 long as you don't defame me and make false
14 accusations of criminal conduct, as you always
15 do. But you can't take the property of others
16 and use it for commercial purposes in your video.

17 Q. All right. What commercial purpose did
18 Handshoe use the video for?

19 A. You're asking me to speculate.

20 Q. No, sir. You say --

21 A. The video --

22 Q. -- in your complaint that --

23 A. -- when you said --

24 Q. -- to counterpoint --

25 A. -- that you put the video on YouTube

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1 channel and you've also admitted to being the
2 person who made the video, so that it could then
3 be embedded on the commercial Slabbed website.

4 Q. Okay. The Slabbed -- commercial
5 Slabbed website that you talk about, does it not
6 have a Creative Commons license displayed on the
7 sidebar?

8 A. I don't know.

9 Q. Okay. Would it surprise you to know
10 that the Slabbed New Media website Creative
11 Commons license is noncommercial, no derivatives?

12 A. No. And I don't see the relevance of
13 that.

14 Q. You claim that the video was used
15 commercially, Mr. Leary.

16 A. You keep asking me about this thing
17 that I've already said, I don't know, so it's
18 asked and answered.

19 Q. I'm asking you, you claim in your
20 counterclaims and defense that the video was used
21 commercially. I'm asking you to describe the
22 commercial activities that the video was used,
23 and you said that would cause you to speculate.
24 You don't have any concrete evidence --

25 A. There was no doubt -- it was also found

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1 by Nova Scotia Supreme Court that you were
2 engaging in commercial publishing. You
3 personally put Slabbed New Media into a Chapter
4 11 bankruptcy. You were in the (inaudible).

5 Q. Again --

6 A. (Inaudible) -- on the Slabbed website.
7 And then you changed the ownership of the website
8 to Slabbed New Media, LLC during the bankruptcy
9 proceeding, not before, not contained in the
10 judge's decision in the bankruptcy.

11 Q. Mr. Leary, we're talking about
12 commercial activities; we're not talking about a
13 bankruptcy. I'm asking you to describe how
14 Handshoe used the video --

15 A. (Inaudible) -- as evidenced by the
16 bankruptcy.

17 Q. Excuse me?

18 A. Commercial activity as evidenced by the
19 bankruptcy, nopolicy, its commercial intent, and
20 you gained monies.

21 Q. Explain --

22 A. One day you thought you were going to
23 have an actual, you know, commercial enterprise
24 that made huge amounts of money.

25 Q. What I need you to explain,

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1 Mr. Leary --

2 A. There was no need for ruining those --
3 you know, efforts, falsely but you should have
4 maybe gone after The Times-Picayune instead of
5 me.

6 Q. Mr. Leary, again, and I'll ask this
7 question a different way. You can't name a
8 single way that that video was used commercially
9 for profit, can you?

10 A. Yes. (Inaudible) its content is
11 commercial use.

12 COURT REPORTER: I'm sorry?

13 A. It's already been found by a judge in a
14 case in which Mr. Handshoe participated that the
15 use was commercial, the website is commercial.
16 And Mr. Handshoe has said that he put the video
17 on his YouTube channel so that it could be
18 published on Slabbed which is a commercial
19 website.

20 BY MR. HANDSHOE:

21 Q. You're talking about the Slabbed New
22 Media, LLC website, correct?

23 A. Yes.

24 Q. Okay. All right.

25 A. You earn money by donations, you have a

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1 Paypal account, you receive checks, you receive
2 money from Jack Truitt, you had people entreating
3 others to give you money for your publishing
4 efforts, you had advertising on your website for
5 various law firms so --

6 Q. Can you give me a specific example --

7 A. -- many various (inaudible) for
8 commercial activity occurring.

9 Q. Okay. Can you give me a specific
10 example where Slabbed New Media received a
11 donation for the video?

12 A. That's -- in media, that's like asking
13 a subscriber to a newspaper whether they
14 subscribed to the newspaper to pay for one
15 photograph. That's not the way it works. But,
16 yes, people paid money for the content on Slabbed
17 New Media, and you gained money from those
18 publishing activities. And I also believe people
19 paid or exchanged something of value to advertise
20 on your website. And you had lots of traffic, as
21 I think you said at various times, you have lots
22 of traffic to the website.

23 Q. I did --

24 A. It may have gone up and down.

25 Q. What I'm trying to do is I'm trying to

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1 establish a direct causation between making money
2 and the video. And what you're describing to me
3 are general activities not specifically related
4 to any particular posting or video; is that not
5 true?

6 A. Mr. Handshoe, you have no right to take
7 the intellectual property of others and make a
8 video with it and then publish it to YouTube.
9 And, in this case, it was specifically, you said,
10 so that Slabbed could or it could appear on
11 Slabbed.org which is a commercial website and to
12 drive traffic to the website.

13 Q. Do you have any evidence, Mr. Leary,
14 that Handshoe sold the video to any third
15 parties?

16 A. I'm sorry?

17 Q. Do you have any evidence that Handshoe
18 sold the video to any third parties?

19 A. Yes. And you sold to people who
20 donated money to Slabbed.

21 Q. A donation, you know --

22 A. To drive traffic to the website.

23 Q. -- is a voluntary activity; is it not?

24 A. Advertising, Mr. Handshoe.

25 Q. Specifically which advertising?

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1 A. You described your business plan to the
2 bankruptcy court.

3 Q. Yeah. But what I'm trying to do is I'm
4 trying to connect specific money to the video.
5 You're alleging that Slabbed is generally
6 commercial, and I won't necessarily disagree with
7 you. But, in terms of copyright infringement,
8 Slabbed would have had to directly made money off
9 of your work, not in a general sense, but in a
10 specific sense.

11 A. No. Mr. Handshoe, when you stole the
12 photographic drawing done by Chris Yount's child,
13 that was found to be infringing copyright. The
14 judge found you didn't understand copyright when
15 you -- as soon as a creative work is created, it
16 is copyrighted by the author whether it's
17 registered or not. You have to register it, as I
18 understand it, to take certain legal actions but
19 copyright subsists in a creative work and
20 photographs are creative work.

21 The video made your website more
22 attractive to advertisers and subscribers and
23 donators and therefore earned money.

24 Q. Okay.

25 A. That's commercial.

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1 Q. All right. Thank you.

2 A. I assume all the content that you put
3 on the Slabbed website you do so for commercial
4 purposes.

5 Q. Okay. All right.

6 A. You don't have a nonprofit corporation
7 as far as I know.

8 Q. No.

9 A. And that nonprofit corporation
10 certainly isn't the publisher of the Slabbed
11 website.

12 Q. Thank you, Mr. Leary. Moving right
13 along, in February 2012, did you voluntarily give
14 a photograph taken by Kara Crowell to the Toronto
15 Star for use in a story about litigation you had
16 filed in Canada against Handshoe?

17 A. Kara Crowell, as an employee of Trout
18 Point Lodge, took a photograph.

19 Q. Correct. Did you voluntarily give it
20 to the Toronto Star?

21 A. I assigned the rights for it to be
22 published in an article.

23 Q. Okay. Have you ever produced the
24 assignment for --

25 A. (Inaudible) -- with no authorization

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1 for any other parties to take and use that
2 photograph. And, in fact, the Toronto Star's
3 website terms and conditions prohibit anyone from
4 taking content that might belong to third parties
5 from that website. But that's what you did.

6 Q. I would have to disagree with your
7 characterization of the Toronto Star's terms and
8 conditions. It protects them, not third parties.

9 A. And it says that any user, and that's
10 you, is not authorized to take any content from
11 the website including content that might be the
12 property of third parties. That's what I recall.

13 Q. Okay. Did --

14 A. Otherwise I wouldn't have assigned or
15 limited use of the photograph to the Toronto
16 Star.

17 Q. Okay. What is the date of the
18 assignment that you made to the Toronto Star?

19 A. I don't recall.

20 Q. Have you produced such an assignment
21 for the Court?

22 A. I believe it was an email exchange.

23 Q. That email that you submitted just had
24 the picture attached, there was no verbiage
25 associated with it. Is there additional

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1 documents related to that submission to the
2 Toronto Star?

3 A. I think it was an oral agreement.
4 Again, I don't remember. It was a long time ago.

5 Q. It was an oral agreement?

6 A. I believe so.

7 Q. Okay. All right. Thank you.

8 With regard to the Smulders photograph,
9 was that photograph taken in 2006?

10 A. I don't recall.

11 Q. Okay. Did it appear in a magazine
12 called, Nova Scotia Open to the World, in their
13 winter 2006 edition?

14 A. It appeared in Open to the World. I
15 don't remember the date.

16 Q. Okay. All right. Again, do you
17 remember anything about the assignment that you
18 got, exactly when it was dated, from
19 Ms. Smulders?

20 A. No.

21 Q. Okay. All right. Thank you.

22 Now, with regard to the Ashoka
23 photograph, did you voluntarily allow yourself to
24 be photographed by Ashoka for use in the
25 Geotourism Summit?

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1 A. It was the limited purpose of an
2 article they were writing on the National
3 Geographic Geotourism Summit.

4 Q. Okay. Yes. And that was in 2010?

5 A. Not for use by anyone else.

6 Q. Yes. Okay. And that was in 2010,
7 correct?

8 A. The Geotourism Summit was in 2010.

9 Q. Okay. All right. Thank you.

10 A. And obviously I'm not giving permission
11 to the Toronto Star or Ashoka to use my image or
12 photographic material to be set side by side with
13 false injurious statements by you or anyone else.
14 There is very limited purpose.

15 Q. Okay. Now, with regard to these
16 photographs and your copyright, how much money
17 have y'all made selling those photographs?

18 A. Those photographs were used for
19 promotion purposes. And, again, you're asking me
20 to testify on behalf of Trout Point Lodge and I
21 object to that.

22 Q. Mr. Leary, you're suing me personally
23 for copyright infringement. I'm just trying to
24 get a handle on what the market was for these
25 photographs.

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1 A. They have tremendous value -- I mean,
2 the Ashoka article was tremendously valuable.
3 The other photographs at issue were also used in
4 equally valuable situations, and they developed
5 goodwill which is a property.

6 Q. Okay. All right. I thank you for that
7 answer.

8 A. You want to destroy the goodwill of us
9 and our business through the use of those
10 photographs in ways which they were not intended.
11 And that's what copyright is supposed to do,
12 allow a means for protecting creative works.

13 Q. So, other than --

14 A. And to express oneself freely, our
15 First Amendment rights.

16 Q. Okay. So am I correct in saying that
17 you never offered any of these photographs for
18 sale to third parties?

19 A. No.

20 Q. Okay.

21 A. They were used for marketing and
22 promotion and for me to develop business and
23 bring in revenue.

24 Q. Okay. Did anyone ever -- talking about
25 goodwill, anybody ever check into your business

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1 because they had seen you -- specifically because
2 they had seen your photograph?

3 A. Yes. Goodwill, you know, in terms of
4 business, Mr. Handshoe, is extremely important
5 and it's a tremendous asset.

6 Q. And that goodwill belonged to Trout
7 Point Lodge, wouldn't it; would it not?

8 A. Yes. But you keep questioning me about
9 Trout Point Lodge Limited.

10 Q. I'm just trying to figure out who's
11 bringing the claims here, Mr. Leary. Okay.

12 A. Mr. Handshoe, I own the U.S. rights.

13 Q. Now --

14 A. And your underhanded attempt to have
15 those auctioned off to (inaudible) was
16 fortunately stayed by the Court, and we'll get
17 into those issues.

18 Q. Let's talk a little bit more about the
19 photographs themselves. Mr. Leary, do you
20 remember much about the time that Ms. Smulders
21 came to the lodge and took the picture of
22 yourself, Mr. Perret, and Mr. Abel?

23 A. (Inaudible.)

24 COURT REPORTER: I'm sorry?

25 A. I thought you said that was 2006.

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1 BY MR. HANDSHOE:

2 Q. Yeah. It was a long time ago. Is
3 there anything that -- so there's really nothing
4 that sticks out special to you about that day, in
5 terms of the amount of time and effort that y'all
6 had to take, in order to make the photograph?

7 A. It was a rare occasion in which the
8 three of us were together and it appeared in Nova
9 Scotia Open to the World magazine as a
10 promotional piece about Trout Point Lodge and it
11 was very important.

12 Q. Can you tell me how long it took
13 Ms. Smulders to take the photograph?

14 A. Well, I'm not Ms. Smulders.

15 Q. Okay. Did you have to take multiple
16 photographs? Did it last for several hours? Can
17 you recall?

18 A. That's irrelevant. Copyright subsist
19 in the photograph whether it took her ten days or
20 10 minutes.

21 Q. That's true, Mr. Leary --

22 A. I don't need to --

23 Q. -- but that's a legal conclusion. I'm
24 just trying to establish facts here. The
25 photograph that was used in the Toronto Star that

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1 was taken by Ms. Crowell, as an agent for Trout
2 Point Lodge for hire, was there anything special
3 about that photograph in terms of the time it
4 took to make it?

5 A. You're talking about Ms. Crowell?

6 Q. The Toronto Star photograph that was
7 taken by Ms. Crowell. Explain how long that
8 took. Was it an all-day photo shoot or was it
9 just --

10 A. I don't know Ms. Crowell. Are you
11 referring to Kara Crowell?

12 Q. Yes. Is that how it is pronounced?

13 A. It's Kara Crowell.

14 Q. Okay. Thank you for correcting me,
15 Mr. Leary. Did that take all day to do or was it
16 a matter of she taking that snapshot? Was it
17 done spur-of-the-moment? Can you describe for me
18 that process that went behind making that
19 picture?

20 A. No. It wasn't spur-of-the-moment. It
21 took quite a bit of time actually.

22 Q. It took a lot of time. All right. The
23 Ashoka photograph, what do you remember about
24 that in terms of the amount of time it took to
25 make that photograph?

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1 A. The Geotourism Summit was one of the
2 proudest moments in our lives as business people.
3 It was an extraordinary event. Trout Point Lodge
4 had been selected, based on documents that we had
5 submitted to National Geographic in Ashoka, as
6 tourism businesses, sustainable tourism
7 businesses, and we were extremely proud to be
8 invited to Washington D.C. to the tourism summit
9 by the National Geographic Society and Ashoka.
10 It was the result of years and years of hard work
11 and recognition for that work. So --

12 Q. But the actual photograph itself --

13 A. But the value of the photograph was,
14 for us, it was extremely valuable.

15 Q. Okay.

16 A. Even after the National Geographic
17 Summit at which I spoke, as a delegate, Ashoka
18 wanted to interview us about being social
19 entrepreneurs and the photograph was used
20 specifically and only with that article.

21 Q. Okay.

22 A. We were one of the top ten finalists in
23 the world selected from, I think, almost 700
24 applications from around the world by a panel of
25 judges including a Nobel Prize winner. And you

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1 have taken that photograph and sullied it by
2 placing it next to false criminal allegations in
3 your conspiracy theory.

4 Q. Okay. Again, it wasn't an all-day
5 photoshoot. You appeared, y'all took the
6 picture, and then you moved on to the next
7 activity; would that be a fair description?

8 A. No.

9 Q. No. Well, explain to me the process
10 that went behind the photograph itself. And I
11 understand how proud y'all are of being in the
12 top ten finalists and y'all are to be
13 congratulated for that. What I'm really
14 interested in is the process behind the
15 photograph itself, how that unfolded.

16 A. It was an interview process that took
17 quite some time.

18 Q. Okay. Now we've described all four
19 photographs and you've indicated that they were
20 used for promotional stories for the lodge at
21 various times; is that not correct?

22 A. Yes.

23 Q. Okay. Thank you.

24 A. And, Mr. Handshoe, I just have to say
25 you told me an hour-and-a-half and I have another

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1 meeting coming up shortly.

2 Q. I appreciate that, Mr. Leary. There's
3 also been a considerable amount of bickering by
4 Mr. Perret that's also delayed us some, but we
5 are coming to a conclusion. And I'll do this as
6 expeditiously as I can.

7 A. I don't agree with that. You've asked
8 questions repetitively.

9 Q. With regard to the video that the
10 photographs were used in, that video contained an
11 entire series of photographs; did it not?

12 A. As I recall, you used the photographs
13 owned by The Times-Picayune and others but I
14 can't remember how many.

15 Q. Okay. Well, it was a series of
16 photographs?

17 A. The photographs belonging to either me,
18 Trout Point Lodge or Vaughn Perret.

19 Q. Okay. And the --

20 A. Without permission.

21 Q. And the montage of photographs that
22 were used, they were set to music; was it not?

23 A. I don't know what you mean by montage.

24 Q. The series of photographs, they were
25 set to music, were they not?

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1 A. I don't recall.

2 Q. Okay. All right.

3 A. I'm limited -- I'm only concerned about
4 the photos that belonged to me, Vaughn Perret or
5 Trout Point Lodge.

6 Q. Okay. I appreciate that. Thank you.
7 All right.

8 A. I'm not even sure I watched the video
9 with the sound on.

10 Q. Mr. Leary, just bear with me. I'm
11 flipping through my notes so we can get these
12 last questions out of way. Okay.

13 Can you give me an example of a
14 particular guest coming to stay at the lodge
15 specifically because of the photographs?

16 A. Okay. These photographs are not
17 specific.

18 Q. So it was the photographs in
19 combination with the text in the story, the
20 advertisement, that's what really caused people
21 to come to the lodge. It wasn't just the
22 photographs themselves, it was the photographs
23 that were attached?

24 A. You're making a conclusion.

25 Q. Okay. All right. Okay. So can you

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1 give me an example where someone came to the
2 lodge specifically because they had seen your
3 photographs?

4 A. I can't remember the names but there
5 absolutely were guests. The Ashoka publication,
6 the National Geographic publicity, people
7 recognized me. They are people I've never met
8 who come to the lodge.

9 Q. But those --

10 A. (Inaudible) -- you're Charles Leary,
11 I've seen your photo.

12 Q. Those publications, Mr. Leary, contain
13 both picture and text; do they not?

14 A. I don't know what publications you're
15 referring to.

16 Q. The publications that contained your
17 pictures.

18 A. There is -- in my pictures, there were
19 the picture of me published by Ashoka was
20 published on their Changemakers website in an
21 article. I've already stated that.

22 Q. Okay. Thank you. And that would be
23 true of Ms. Smulders' photograph, as well, would
24 it not? That those pictures --

25 A. I'm sorry. Could you repeat that. And

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1 I just want to state again, for the record, that
2 the method that this deposition is being taken
3 by, there's various points at which your voice
4 drops and it's not necessarily when I'm speaking.
5 So I'm not sure that there's, you know, a clear
6 record being established here. Could you repeat
7 the last question.

8 Q. Sure. Again, the photographs that
9 y'all took that were being used as your basis for
10 copyright infringement, the photographs
11 themselves were also accompanied by text to make
12 the advertisement, correct? Did the Marilyn
13 Smulders photograph, was it accompanied by a
14 story which promoted the lodge?

15 A. Asked and answered. I object to the
16 form of the question.

17 Q. Okay. All right.

18 A. When people arrive, those photographs
19 are important. I don't necessarily like being
20 someone who is recognized but that's part of the
21 business. And people like to know their
22 innkeepers. It's very important. People arrive,
23 see me and identify me, say, you're Charles
24 Leary.

25 They want to come to meet the owners

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1 who published a cookbook, who do creative things,
2 who have been recognized. People want to know
3 their innkeepers. When we belonged to the Relais
4 and Chateaux Association, the motto was, the soul
5 of the innkeeper. It's very important to meet
6 your guests, be known by your guests, and for
7 people to know that they were going to have that
8 kind of experience when they come to a place like
9 Trout Point Lodge.

10 Q. Okay. Thank you. How many --

11 A. And I'm a nice-looking man,
12 Mr. Handshoe, and I believe people come because
13 I'm a nice-looking man and they've seen my
14 photographs in places like the Ashoka
15 Changemakers website and the National Geographic
16 Society Flickr page. That's another photograph
17 you took without permission.

18 Q. Mr. Leary, do you own the copyrights to
19 that photograph or does National Geographic --

20 A. National Geographic does but it's my
21 image.

22 Q. Okay. Well, National Geographic owns
23 those rights. All right. Mr. Leary, how many --

24 A. That's my image, Mr. Handshoe.

25 Q. Mr. Leary, how many people or persons

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1 have offered to purchase the copyrights to those
2 photos? Have you ever had --

3 A. (Inaudible.)

4 Q. I'm sorry, Mr. Leary. I'll ask the
5 question more succinctly. Have y'all ever had an
6 offer to purchase the copyrights in those
7 photographs?

8 A. (Inaudible) --

9 COURT REPORTER: I'm sorry?

10 A. -- those photographs that are at issue
11 in the claim. And, Mr. Handshoe, it's now 6:40
12 here and I really have to go.

13 BY MR. HANDSHOE:

14 Q. Okay. Mr. Leary, so no one has offered
15 to buy the -- purchase the copyrights of those
16 photographs?

17 A. Asked and answered. I object.

18 Q. The court reporter did not understand
19 your answer, Mr. Leary. Could you please repeat
20 it.

21 A. I object to the form of the question.
22 It's asked and answered. I've already answered
23 this question.

24 COURT REPORTER: I did not hear your
25 prior answer. Sorry.

Charles Leary
July 27, 2018

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1 THE WITNESS: Okay. Once again, he's
2 already asked this question. It's asked and
3 answered. And I object to the form of the
4 question. I've already stated that they've
5 never been for sale.

6 MR. HANDSHOE: Okay. Thank you,
7 Mr. Leary. Thank you. We did not hear that.

8 THE WITNESS: Okay. And that's my
9 point with this communication, just saying.

10 MR. HANDSHOE: All right, Mr. Leary.
11 If you'll give me just one second, I would
12 just like to run back through my notes. I
13 think that's everything but I want to make
14 double sure.

15 All right. I think that's all I have.
16 Mr. Leary, I appreciate you taking time out
17 of your day to conduct this deposition.

18 THE WITNESS: Okay.

19 MR. HANDSHOE: And, if you don't have
20 anything else, we'll go ahead and end it.
21 Thank you, sir.

22 THE WITNESS: Okay.

23 (Deposition concluded at 11:42 a.m.)
24
25

CERTIFICATE OF COURT REPORTER

I, Angeli English, Court Reporter and Notary Public in and for the County of Harrison, State of Mississippi, hereby certify that the foregoing pages, and including this page, contain a true and correct transcript of the testimony of the witness, as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision and to the best of my skill and ability.

I further certify that the witness was placed under oath to truthfully answer the questions in this matter.

I further certify that I am not in the employ of or related to any counsel or party in this matter, and have no interest, monetary or otherwise, in the final outcome of the proceedings.

Witness my signature and seal this the

19 day of August, 2018.



ANGELI ENGLISH
My Commission Expires May 28, 2019

Douglas Handshoe

From: cmecfhelpdesk@mssd.uscourts.gov
Sent: Tuesday, July 17, 2018 10:11 AM
To: Courtmail@mssd.uscourts.gov
Subject: Activity in Case 1:15-cv-00382-HSO-JCG Handshoe v. Perret et al Order on Motion for Miscellaneous Relief

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was entered on 7/17/2018 at 10:10 AM CDT and filed on 7/17/2018

Case Name: Handshoe v. Perret et al
Case Number: 1:15-cv-00382-HSO-JCG
Filer:
Document Number: No document attached

Docket Text:

TEXT ONLY ORDER granting [269] Motion to Commission Patsy Ainsworth Reporting, Inc. to Telephonically Administer Oath and Take Defendant's Oral Testimony. The parties are ordered to conduct the deposition of Defendant Leary on or before August 10, 2018 by telephonic or other remote means. Patsy Ainsworth Reporting is commissioned to administer the oath and take the testimony telephonically or by other remote means. In light of this order, [260] Motion for an Order Directed to Douglas Handshoe Regarding Service Immunity is hereby found as moot. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 7/17/2018 (AG)

1:15-cv-00382-HSO-JCG Notice has been electronically mailed to:

Douglas Handshoe earning04@gmail.com

1:15-cv-00382-HSO-JCG Notice has been delivered by other means to:

Charles Leary
308 5th Ave E
Vancouver, BC V5T 1H4 Canada



Vaughn Perret(Terminated)
140 Trout Point Road
E. Kemptville, NS B5A 5X9 Canada

SLABBED NEW MEDIA, LLC

The
Alternative
New Media
for the Gulf
South

VIA EMAIL to copyright@amazon.com

January 25, 2016

Amazon Web Services, Copyright Agent
Amazon.com Legal Department
410 Terry Avenue North
Seattle, WA 98109-5210

RE: AMW Notice #17352696474
Instance Id: i-02c4a7c7
IP Address: 54.200.139.248
DMCA Counter notification for mistaken removal

Dear Sir or Madam:

Please find attached to this letter a list of material removed pursuant to 17 U.S.C. Section 512. This material was removed or disabled in error as a result of misidentification of the material as infringing. I declare that this is true and accurate under penalty of perjury under the laws of the United States of America.

For the purposes of this matter, I consent to the jurisdiction of the Federal District Court for the judicial district in which I reside which is the United States District Court for the Southern District of Mississippi, Southern Division. I also consent to service of process by the person providing notification under Section 512(c)(1)(C) or that person's agent for any action brought in that jurisdiction related to this 17 U.S.C. Sec. 512(g)(3) counter notification.

However, by this letter, I do not waive any other rights, including the ability to pursue a legal action against Charles Leary and Torstar Corp. for the wrongful removal or disabling of access to this material.

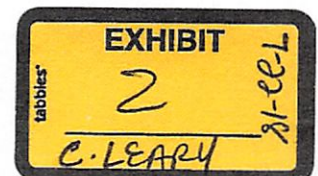
Having complied with the requirements of Section 512(g)(3), I will replace the blocked or removed material and cease disabling access to it on February 9, 2016 unless I am notified Mr. Leary, Mr. Perret or Torstar Corp files an action under 17 U.S.C. Section 512 in the US District Court for the Southern District of Mississippi. I will confirm for you when the material in question has been restored.

I appreciate your prompt attention to this matter. If you have any questions about this notice, please do not hesitate to contact me.

Sincerely,



Douglas Handshoe
Slabbed New Media, LLC
Post Office Box 788
Wiggins, MS 39577
(601) 928-5380



AWS DMCA Notice #17352696474
DMCA COUNTER NOTIFICATION FOR MISTAKEN REMOVAL
LIST OF MATERIAL REMOVED FROM SLABBED NEW MEDIA WEBSITE UNTIL FEBRUARY 9, 2016

Files:

<http://slabbed.org/wp-content/uploads/2012/01/trout-point-lodge.jpg>

Posts which contain an inline link to a Torstar Corp. image, on whose behalf Leary swore he was acting:

<http://slabbed.org/2012/12/04/wash-rinse-repeat-aaron-broussards-former-property-managers-in-canada-again-sue-slabbed-for-defamation-in-nova-scotia/>

Please note the following items listed as infringing on the Slabbed New Media website by Leary have never appeared on the website as follows:

<http://slabbed.org/wp-content/uploads/2012/01/trout-point-lodge-350x198.jpg%2C>

<http://slabbed.org/wp-content/uploads/2012/01/trout-point-lodge-300x199.jpg%2C>